

Effective 5/13/2014

31A-23b-211 Exceptions to navigator licensing.

(1) For purposes of this section:

- (a) "Negotiate" is as defined in Section 31A-23a-102.
- (b) "Sell" is as defined in Section 31A-23a-102.
- (c) "Solicit" is as defined in Section 31A-23a-102.

(2) The commissioner may not require a license as a navigator of:

(a) a person who is employed by or contracts with:

- (i) a health care facility that is licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, to assist an individual with enrollment in a public program or an application for premium subsidy; or
- (ii) the state, a political subdivision of the state, an entity of a political subdivision of the state, or a public school district to assist an individual with enrollment in a public program or an application for premium subsidy;

(b) a federally qualified health center as defined by Section 1905(1)(2)(B) of the Social Security Act which assists an individual with enrollment in a public program or an application for premium subsidy;

(c) a person licensed under Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries, if the person is licensed in the appropriate line of authority to sell, solicit, or negotiate accident and health insurance plans;

(d) an officer, director, or employee of a navigator:

- (i) who does not receive compensation or commission from an insurer issuing an insurance contract, an agency administering a public program, an individual who enrolled in a public program or insurance product, or an exchange; and

(ii) whose activities:

- (A) are executive, administrative, managerial, clerical, or a combination thereof;
- (B) only indirectly relate to the sale, solicitation, or negotiation of insurance, or the enrollment in a public program offered through the exchange;
- (C) are in the capacity of a special agent or agency supervisor assisting an insurance producer or navigator;
- (D) are limited to providing technical advice and assistance to a licensed insurance producer or navigator; or
- (E) do not include the sale, solicitation, or negotiation of insurance, or the enrollment in a public program;

(e) a person who does not sell, solicit, or negotiate insurance and is not directly or indirectly compensated by an insurer issuing an insurance contract, an agency administering a public program, an individual who enrolled in a public program or insurance product, or an exchange, including:

- (i) an employer, association, officer, director, employee, or trustee of an employee trust plan who is engaged in the administration or operation of a program:

- (A) of employee benefits for the employer's or association's own employees or the employees of a subsidiary or affiliate of an employer or association; and
- (B) that involves the use of insurance issued by an insurer or enrollment in a public health plan on an exchange;

- (ii) an employee of an insurer or organization employed by an insurer who is engaging in the inspection, rating, or classification of risk, or the supervision of training of insurance producers; or

- (iii) an employee who counsels or advises the employee's employer with regard to the insurance interests of the employer, or a subsidiary or business affiliate of the employer; and
- (f) an Indian health clinic or Urban Indian Health Center, as defined in Title V of the Indian Health Care Improvement Act, which assists a person with enrollment in a public program or an application for a premium subsidy.
- (3) The exemption from licensure under Subsections (2)(a), (b), and (f) does not apply if a person described in Subsections (2)(a), (b), and (f) enrolls a person in a private insurance plan.
- (4) The commissioner may by rule exempt a class of persons from the license requirement of Subsection 31A-23b-201(1) if:
 - (a) the functions performed by the class of persons do not require:
 - (i) special competence;
 - (ii) special trustworthiness; or
 - (iii) regulatory surveillance made possible by licensing; or
 - (b) other existing safeguards make regulation unnecessary.

Amended by Chapter 425, 2014 General Session